IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.1005 OF 2007
WITH
FIRST APPEAL NO.724 OF 2005

Prabhakar B.Naik & Ors. .. Applicants

Vs.

Padmakar B. Naik & Ors. .. Respondents

Mr.A.V.Anturkar i/b Sugandh Deshmukh for the applicants

Mr.Vijay Killedar for respondent nos.1 and 3

CORAM : J.N.PATEL &
A.A.SAYED, JJ.

DATED : 26TH SEPTEMBER, 2007

P.C.:

1. Heard the learned counsel for the parties.

2. In view of the subsequent development that respondent no.3 has married without prejudice to the rights of the parties, we do not find that the court should disturb the statusquo which continues for the present i.e. the respondent and respondent no.3 are residing together in the portion of the

property which is the subject matter of the suit.

3. A proposal had come from the appellant whether the matter can be remanded back to the Trial Court. In the given facts and circumstances the Trial Court has proceeded on the assumption that the original defendant was permitted to contest the matter whose defence has been struck of.

4. In our view, it will be proper to hear the appeal rather than remanding the matter on this issue as the same can be taken care of while deciding the appeal by this court.

5. Application, therefore, stands disposed of accordingly. Appeal be listed for hearing in due course.

(J.N. PATEL, J)

(A.A. SAYED, J)